

REMARKS

1. Introduction

Prior to this Amendment, claims 18-44 were pending in this application. In the last office action, claims 18-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pepe et al (U.S. Patent No. 5,742,905) in view of Seazholtz et al (U.S. Patent No. 5,333,173).

This Amendment amends claims 18, 24, 25, 29, 30, 34, 35 and 40 to better define the invention without prejudice or disclaimer of the subject matter of the claims as initially filed for possible prosecution in subsequent continuation applications. In addition, although Applicants do not agree with the Examiner's conclusion that these claims are unpatentable, the above-stated amendments have been made to expedite prosecution of this application. This amendment also adds new claims 45 and 46.

Attached hereto is a marked up version of the changes made to the claims by the current amendment. The attached page is captioned "**Version with Markings to Show Changes Made.**"

2. The Rejection of Claims 18-44 Should Be Withdrawn Because Neither Pepe or Seazholtz Teach or Suggest Transmitting a Message Waiting Indicator to Both a Wireless Device and Landline Device

Independent claim 18 recites a system for providing voice messaging to a wireless device and a landline communication device that includes a message waiting indicator "wherein when a request to leave a message is received at the mobile switching center interface for either the wireless device or the landline communication device, a voice message waiting indication is transmitted to both the wireless device and the landline communication device." (emphasis added).

Independent claim 24 recites a system for providing messaging to a plurality of stations that includes a message waiting indicator "wherein the message waiting indicator transmits a voice message waiting indication to both the wireless device and

the landline communication device when a voice message is received for either the wireless device or the landline communication device." (emphasis added).

Independent claim 29 recites a method that includes "transmitting a voice message waiting indication to said wireless device and said landline communication device." (emphasis added).

Independent claim 34 recites an apparatus that includes "a means for transmitting a message waiting indication to said wireless device and said landline communication device." (emphasis added).

Independent claim 40 recites a system that includes a message waiting indicator "wherein the message waiting indicator transmits a message waiting indication to both the first communication device and the second communication device when a request to leave a message is received at the network interface." (emphasis added).

Neither Pepe nor Seazholtz teach transmitting a "message waiting indication" to two devices as recited in claims 18, 24, 29, 34, and 40. While Pepe teaches cross-media notification of messages, such as the sending of message notification via e-mail to a personal digital assistant (col. 20, lines 42-54), it does not teach sending "voice message waiting indication" to both the telephone instrument on the wireless network and the telephone instrument on the wired network. Thus, as the Examiner noted on page 4-9 of the Office Action dated June 04, 2001, Pepe does not teach transmitting a message waiting indication as recited in claims 18, 24, 29, 34, and 40.

Applicants respectfully disagree with the Examiner's statement that Pepe suggests sending notification messages to both a landline telephone and a mobile telephone. See Office Action at 4. Pepe does not suggest routing messages to more than one device. Rather, Pepe only suggests routing a notification message to an "alternative" device if a first device "is not turned on or otherwise not operating." See col. 6, lines 13-16. In such a case, the message would not be sent to the first device.

The Examiner relied upon Seazholtz as teaching "simultaneous notification for personal check-up calls," and stated that in view of Seazholtz it would have been obvious to add simultaneous call capabilities to Pepe in order "to allow users to communicate from anywhere to anywhere at anytime." See Office Action at 4.

Applicants respectfully submit, however, that Seazholtz does not teach or suggest notification of "voice message waiting indicators" and that the messages sent in Seazholtz are not analogous to the "voice message waiting notification" messages recited in the present claims.

Seazholtz teaches a personal check-up service that periodically places telephone calls to a person in need of surveillance, such as an elderly person. Col. 1, lines 29-42. If the person under surveillance does not answer the telephone calls, the system sends a "notification message" to persons on a list, such as the grown children of the elderly person under surveillance. Col. 2, lines 17-24. The "notification message" disclosed in Seazholtz is not a "message waiting indication" within the meaning of present claims because it does not notify anyone that a message is waiting, let alone that a "voice message" is waiting. Instead of notifying them that there is a message, Seazholtz's notification message notifies persons that "an immediate care situation exists." Col. 2, lines 25-27. Seazholtz's notification message contains all of the pertinent information that the system knows (e.g., that the person under surveillance did not answer their phone), and once a person on the list receives such a notification message there is no further message or information that the system can give them.

Finally, even assuming that Pepe and Seazholtz taught or suggested all of the limitations of claims 18, 24, 29, 34, and 40, the rejection of these claims as obvious over Pepe and Seazholtz was not proper because the Examiner has not shown "actual evidence" that there would have been a motivation for combining these references. See *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999) (holding that an examiner is required to show "actual evidence" of a motivation to combine references).

The remaining claims depend from independent claims 18, 24, 29, 34 or 40 and are allowable for at least the same reasons as set forth above with respect to claims 18, 24, 29, 34 or 40. Applicants note that the Examiner has set forth bases for rejections of certain dependent claims. Because each dependent claim ultimately depends from an independent claim that is patentable, Applicants decline to respond specifically to those bases for rejection. Applicants do not, however, necessarily agree with the Examiner's characterization of the references and the dependent claims, and preserve the right to respond, if necessary, at a later date.

3. The Rejection of Claims 18 and 40 Should Be Withdrawn Because Pepe and Seazholtz Do Not Teach Sending Voice Message Waiting Indications to Two Devices that Each have their Own Telephone Number

An additional reason why the rejections of claims 18 and 40 should be withdrawn is that these claims recite sending message waiting indications to two devices that each have their own telephone number. Pepe does not disclose this feature of claims 18 and 40. Applicants submit that while a user of the system in Pepe may use a wireless phone or a wireline phone, the wireless phone and wireline phone do not have different telephone numbers. Pepe states that "[t]he mobile communications subscriber can receive e-mail, fax, pages, and voice messages under a single phone number while using either a wireless or wireline network." Col. 5, lines 59-62 (emphasis added). The wireless and wireline phones therefore do not act as independent devices. Thus, Pepe does not teach or suggest sending message waiting indications to two devices that each have their own telephone number as recited in claims 18 and 40. Claims 18 and 40 are patentable over the art of record for at least this reason.

4. The Rejection of Claims 34-38 Should Be Withdrawn Because the Prior Art Element is Not an Equivalent to that Disclosed in Applicant's Specification

An additional reason why the rejection of claim 34-38 should be withdrawn is that the rejection of these claims was not in compliance with the "Supplemental Examination Guidelines for Determining the Applicability of 35 U.S.C. 112, para. 6," 65 Fed. Reg. 38510 (June 21, 2000) (available at www.uspto.gov/web/offices/com/notices/fr112p6.html).

These guidelines provide that "If a claim limitation invokes 35 U.S.C. 112, para. 6, it must be interpreted to cover the corresponding structure, material, or acts in the specification and 'equivalents thereof.'" Id. at 38514. They further provide that "If the examiner finds that a prior art element (1) performs the function specified in the claim,

(2) is not excluded by any explicit definition provided in the specification for an equivalent, and (3) is an equivalent of the means- (or step-) plus-function limitation, the examiner should provide an explanation and rationale in the Office action as to why the prior art element is an equivalent." Id. (emphasis added).

Applicants respectfully submit that claims 34 - 44 invoke 35 U.S.C. § 112, ¶ 6, but that the Office Action has not provided an explanation and rationale as to why the prior art element is an equivalent to that disclosed in Applicant's specification. Applicants submit that the prior art does not disclose or suggest equivalents to the structure disclosed in Applicants' specification, and that claims 34 - 44 are patentable over the art of record for at least this reason.

5. New Claims 45 and 46 are Patentable Over the Art or Record

New claim 45 depends from claim 18 and further recites that "all inbound calls to the voice mailbox are received via the mobile switching center interface." New claim 46 depends from claim 24 and further recites that "all inbound calls to the mailbox are received via the mobile switching center."

Applicants respectfully request that the art or record does not disclose the limitations recited in new claims 45 and 46 and that these claims are patentable for at least this reason.

6. Conclusion

Applicants respectfully requests entry of the above amendments and favorable action in connection with this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Kenyon & Kenyon Deposit Account No.

11-0600. The Examiner is invited to contact the undersigned at (202) 220-4310 to discuss any matter concerning this application.

Respectfully submitted,

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18. (Twice Amended) A system for providing voice messaging to a wireless device and a landline communication device, the system comprising:

a voice mailbox;

a mobile switching center interface capable of receiving requests to leave messages in the voice mailbox for the wireless device or the landline communication device, wherein the wireless device may be identified by a first telephone number and the landline device may be identified by a second telephone number; and

a message waiting indicator coupled to said mobile switching center interface, wherein when a request to leave a message is received at the mobile switching center interface for either the wireless device or the landline communication device, a voice message waiting indication is transmitted to both the wireless device and the landline communication device.

19. The system of claim 18, wherein the message waiting indication is provided to said landline communication device through a hub end office without passing through said mobile switching center.

20. The system of claim 19, wherein the message waiting indication is sent to said hub end office via an SDMI link, and the message waiting indication is sent from said hub end office to the landline communication device through a remote end office over the Signal System 7 network.

21. The system of claim 19, wherein the message waiting indication is provided to the landline communication device using a simplified message desk data link.

22. The system of claim 21 wherein said message waiting indicator causes notifications to be sent to said wireless device and said landline communication device substantially simultaneously.

23. The system of claim 21 wherein said message waiting indicator causes a notification to be first sent to one of said wireless device and said landline communication device and then subsequently causes a notification to be sent to the other one of said wireless device and said landline communication device when a predetermined condition is satisfied.

24. (Twice Amended) A system for providing messaging to a plurality of stations, comprising:

a mailbox that is associated with a wireless device and a landline communication device;

a mobile network interface coupled to a first mobile switching center serving said wireless device, said mobile network interface receiving a request through said mobile switching center to leave a message for a landline communication device; and

a message waiting indicator coupled to said mobile network interface, wherein the message waiting indicator transmits a voice message waiting indication to both the wireless device and the landline communication device when a ~~request to leave a voice~~ message is received for either the wireless device or the landline communication device.

25. (Twice Amended) The system of claim 24, wherein the message waiting indication is provided to said landline communication device through a hub end office without passing through said mobile switching center.

26. The system of claim 25, wherein the message waiting indication is sent to said hub end office via an SDMI link, and the message waiting indication is sent from said hub end office to the landline communication device through a remote end office over the Signal System 7 network.

27. The system of claim 26, wherein the message waiting indication is provided to the landline communication device using a simplified message desk data link.

28. The system of claim 27 wherein said message waiting indications are sent to said wireless device and said landline communication device substantially simultaneously.

29. (Twice Amended) A method comprising:

receiving a message for a wireless device and for a landline communication device through a mobile switching station;

storing said message for said wireless device and said landline communication device in a telecommunication mailbox, wherein said telecommunication mailbox is associated with said wireless device and said landline communication device; and

transmitting a voice message waiting indication to said wireless device and said landline communication device.

30. (Twice Amended) The method of claim 29, wherein the message waiting indication is transmitted to the landline communication device through a hub end office without passing through said mobile switching center.

31. The method of claim 30, wherein the message waiting indication is transmitted to said hub end office via a SDMI link, and the message waiting indication is transmitted from said hub end office to the landline communication device through a remote end office over the Signal System 7 network.

32. The method of claim 31, wherein the message waiting indication is provided to the landline communication device using a simplified message desk data link.

33. The method of claim 32 wherein said message waiting indication is transmitted to said wireless device and said landline communication device substantially simultaneously.

34. (Once Amended) An apparatus comprising:

a means for receiving a message for a wireless device and for a landline communication device through a mobile switching station;

a means for storing said message for said wireless device and said landline communication device in a telecommunication mailbox, wherein said telecommunication mailbox is associated with said wireless device and said landline communication device; and

a means for transmitting a message waiting indication to said wireless device and said landline communication device.

35. (Once Amended) The apparatus of claim 34, wherein the message waiting indication is transmitted to the landline communication device through a hub end office without passing through said mobile switching center.

36. The apparatus of claim 35, wherein the message waiting indication is transmitted to said hub end office via a SDMI link, and the message waiting indication is transmitted from said hub end office to the landline communication device through a remote end office over the Signal System 7 network.

37. The apparatus of claim 36, wherein the message waiting indication is provided to the landline communication device using a simplified message desk data link.

38. The apparatus of claim 37 wherein said message waiting indication is transmitted to said wireless device and said landline communication device substantially simultaneously.

40. (Once Amended) A system comprising:

a mailbox that is associated with a first communication device having a first telephone number and a second communication device having a second telephone number;

a network interface to receive a request to leave a message; and

a message waiting indicator coupled to said network interface, wherein the message waiting indicator transmits a message waiting indication to both the first communication device and the second communication device when a request to leave a message is received at the network interface.

41. The system of claim 40, wherein the message waiting indication is provided to said first communication device through a hub end office.

42. The system of claim 41, wherein the message waiting indication is sent to said hub end office via an SDMI link, and the message waiting indication is sent from said hub end office to the first communication device through a remote end office over the Signal System 7 network.

43. The system of claim 42, wherein the message waiting indication is provided to the first communication device using a simplified message desk data link.

44. The system of claim 43 wherein said message waiting indications are sent to said first communication device and said second communication device substantially simultaneously.

45. (NEW) The system of claim 18, wherein all inbound calls to the voice mailbox are received via the mobile switching center interface.

46. (NEW) The system of claim 24, wherein all inbound calls to the mailbox are received via the mobile switching center.